

DMB:KLM:slg

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

JAMES E. BETHEA,	:	
Petitioner	:	No. 1:CV-01-0079
	:	
v.	:	(Kane, J.)
	:	(Blewitt, M.J.)
DONALD ROMINE,	:	
Respondent	:	

**FILED**  
HARRISBURG, PA

FEB 6 2001

MARY E. D'ANDREA, CLERK  
Per                       
Deputy Clerk

MOTION FOR ENLARGEMENT OF TIME

Pursuant to Fed. R. Civ. P. 6(b), respondent requests the Court to grant them a forty-five day enlargement of time in which to file their response to the Court's show cause Order. Respondent states the following in support thereof:

1. Petitioner is an inmate incarcerated at the Lewisburg United States Penitentiary in Lewisburg, Pennsylvania.
2. On January 16, 2001, petitioner filed a 28 U.S.C. §2241 habeas corpus petition challenging the Parole Commission's failure to provide him with a recission hearing.
3. By Order dated January 24, 2001, respondent was ordered to show cause on or before February 13, 2001, why petitioner should not be granted habeas corpus relief.
4. In order to appropriately respond to petitioner's allegations, the United States Attorney's Office requested

litigative assistance from agency counsel at the United States Parole Commission.

5. Agency counsel has indicated that she is unable to prepare a litigative report because petitioner's file is with the Hearing Examiner for a pre-recission hearing review -- with petitioner's recission hearing being on the Hearing Examiner/Parole Commission's March 2001 docket.<sup>1</sup>

6. In that the relief petitioner would be entitled to if he would succeed on his habeas petition would be an order directing the Parole Commission to conduct a recission hearing and that hearing is going to occur in March 2001, petitioner is going to obtain the relief he effectively seeks.<sup>2</sup>

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<sup>1</sup> The Government notes that a delay has occurred with all parole hearings due to Congress' enactment of the District of Columbia Revitalization Act. As part of that statute, the District of Columbia Parole Commission was abolished with all D.C. inmates and their parole issues/cases being transferred to the United States Parole Commission. This significant transfer of cases was done without increasing Parole Commission staff, resources, or funding. As a result, a backload of parole cases/matters occurred, which backload is now being addressed. Thus, petitioner's recission hearing is now going to be heard in March 2001.

<sup>2</sup> While petitioner actually seeks to be released on bond, petitioner cites to no authority to authorize such relief. Nor, as petitioner claims in arguing why he should be released on bond, is the maximum sentence for having a negative urine test eight months. Although eight months is the typical maximum guideline range, the Parole Commission nevertheless may exceed the guidelines when it finds it appropriate to do so within its discretion.

WHEREFORE, on behalf of respondent, the United States Attorney's Office requests a forty-five day enlargement of time in which to file their response to the Court's show cause Order. Counsel certifies that she has not sought the concurrence of petitioner because petitioner is a prisoner proceeding pro se. M.D. Pa. Local Rule 7.1.

Respectfully submitted,

DAVID M. BARASCH  
United States Attorney



KATE L. MERSHIMER  
Assistant U.S. Attorney  
SHELLEY L. GRANT  
Paralegal Specialist  
217 Federal Building  
228 Walnut Street  
Harrisburg, PA 17108

Dated: February 6, 2001

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

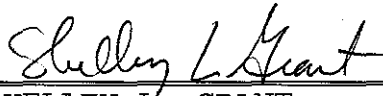
That on February 6, 2001, she served a copy of the attached.

MOTION FOR ENLARGEMENT OF TIME

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

James E. Bethea  
Reg. No. 04286-000  
USP Lewisburg  
P.O. Box 1000  
Lewisburg, PA 17837

  
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SHELLEY L. GRANT  
Paralegal Specialist